

18653 Meloy

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-203377.3

DATE: June 30, 1981

MATTER OF: Astrocom Electronics, Incorporated

DIGEST:

Whether or not bidders have capability to produce item at offered price and in accordance with agency's requirements, is question of bidders' responsibility as prospective contractors, a determination within the ambit of the contracting officer.

Astrocom Electronics, Incorporated protests the possible award of a contract to either Marmac Industries or Aqua-Aire, Incorporated, under solicitation No. DLA100-81-B-0772, issued by the Defense Logistics Agency's (DLA) Defense Personnel Support Center in Philadelphia, Pennsylvania. Astrocom maintains that these two firms are in fact the same company and have experienced performance and quality problems on past procurements. It further speculates that these firms may not understand that the items in question (helmets) "are substantially different in construction as well as quality requirements than those ordered in the past." The protest is dismissed.

In effect, Astrocom is alleging that Marmac and Aqua-Aire are incapable of manufacturing the product in question at their offered prices, and in accordance with all of DLA's requirements. These are matters of a bidder's responsibility as a prospective contractor. A responsibility determination must be made by the contracting officer prior to award. Defense Acquisition Regulation § 2-407.3 (1976 ed.). Although it is not clear whether such a determination has yet been made here, our Office generally will not review a protest of an affirmative determination of responsibility, which is largely a business judgment, unless there is a showing of possible fraud on the part of the

[Protest Alleging That Proposed Awardees Are Incapable of Producing Contract Item]

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procuring officials or the solicitation contains definitive responsibility criteria which have not been applied. Environmental Container Systems, Inc., B-201739, February 9, 1981, 81-1 CPD 83; X-Tyal International Corp., B-198802, May 22, 1980, 80-1 CPD 355. Neither of these has been alleged in the present case.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel